

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

=====X
GEORGE W. BROWN,

Case No.: 08 CV 1093
LMM

Plaintiff,

ANSWER

-against-

**Jury Trial
Demanded**

THE BROOKDALE HOSPITAL MEDICAL CENTER,
SANJEEV RAJPAL, M.D., CLASS SURGERY
BROOKLYN GROUP, P.C., THE MOUNT SINAI
HOSPITAL, HOWARD CHOI, M.D., DANIELLE
PERRET, M.D., BRIAN RIORDAN, M.D., NEW
FRANKLIN REHABILITATION & HEALTH CARE
FACILITY, LLC, FRANKLIN CENTER FOR
REHABILITATION & NURSING, INC., FRANKLIN
CENTER FOR REHABILITATION & NURSING,
ISRAEL SHERMAN, WILLIAM DUKE, M.D.,
HILLSIDE MANOR COMPREHENSIVE CARE
CENTER, and THE NEW YORK HOSPITAL
MEDICAL CENTER OF QUEENS,

Defendants.

=====X

Defendant, **CLASS SURGERY BROOKLYN GROUP, P.C.**, by its
attorneys, **BELAIR & EVANS LLP**, for its Answer to the plaintiff's
Complaint, states as follows:

AS TO THE FIRST CAUSE OF ACTION

FIRST: Denies each and every allegation contained in the
paragraphs of the Complaint designated "3" and "4".

SECOND: Denies each and every allegation contained in the
paragraph of the Complaint designated "47", except admits that
defendant **SANJEEV RAJPAL, M.D.** is a physician duly licensed to
practice medicine in the State of New York.

THIRD: Denies each and every allegation contained in the
paragraphs of the Complaint designated "5", "54", "55", "56" and
"78", except admits that defendant **SANJEEV RAJPAL, M.D.** saw
plaintiff at certain times.

FOURTH: Denies each and every allegation contained in the

paragraph of the Complaint designated "2", except denies knowledge or information sufficient to form a belief as to those allegations pertaining to the co-defendants.

FIFTH: Admits each and every allegation contained in the paragraph of the Complaint designated "48".

SIXTH: Denies each and every allegation contained in the paragraph of the Complaint designated "49", except admits that defendant **CLASS SURGERY BROOKLYN GROUP, P.C.** is incorporated in the State of New York.

SEVENTH: Denies each and every allegation contained in the paragraphs of the Complaint designated "50", "51", "52" and "53", except admits that defendant **SANJEEV RAJPAL, M.D.** is a shareholder of **CLASS SURGERY BROOKLYN GROUP, P.C.**

EIGHTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "1", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "57", "58", "59", "60", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "79", "80" and "81".

AS TO THE SECOND CAUSE OF ACTION

NINTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "81" of the Complaint as though fully set forth at length herein.

TENTH: Denies knowledge or information sufficient to form

a belief as to each and every allegation contained in the paragraphs of the Complaint designated "83", "84", "85", "86", "87", "88", "89", "90", "91", "92", "93", "94", "95", "96" and "97".

AS TO THE THIRD CAUSE OF ACTION

ELEVENTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "97" of the Complaint as though fully set forth at length herein.

TWELFTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "99", "100", "101", "102", "103", "104", "105", "106", "107" and "108".

AS TO THE FOURTH CAUSE OF ACTION

THIRTEENTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "108" of the Complaint as though fully set forth at length herein.

FOURTEENTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "110", "111", "112", "113", "114", "115", "116", "117", "118" and "119".

AS TO THE FIFTH CAUSE OF ACTION

FIFTEENTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "119" of the Complaint as though fully set forth at length herein.

SIXTEENTH: Denies each and every allegation contained in the paragraphs of the Complaint designated "126", "127", "128", "129" and "130".

SEVENTEENTH: Denies each and every allegation contained in the paragraph of the Complaint designated "121", except admits that defendant **SANJEEV RAJPAL, M.D.** is a physician duly licensed to practice medicine in the State of New York.

EIGHTEENTH: Denies each and every allegation contained in the paragraph of the Complaint designated "122", except admits that defendant **SANJEEV RAJPAL, M.D.** saw plaintiff at certain times.

NINETEENTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "123", "124" and "125".

AS TO THE SIXTH CAUSE OF ACTION

TWENTIETH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "130" of the Complaint as though fully set forth at length herein.

TWENTY-FIRST: Denies each and every allegation contained in the paragraphs of the Complaint designated "132", "133", "134", "135", "136" and "137", except admits that defendant **CLASS SURGERY BROOKLYN GROUP, P.C.** saw plaintiff at certain times.

TWENTY-SECOND: Denies each and every allegation contained in the paragraphs of the Complaint designated "138", "139", "140", "141" and "142".

AS TO THE SEVENTH CAUSE OF ACTION

TWENTY-THIRD: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "142" of the Complaint as though fully set forth at length herein.

TWENTY-FOURTH: Denies knowledge or information sufficient

to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "144", "145", "146", "147", "148", "149", "150", "151 and "152".

TWENTY-FIFTH: Denies each and every allegation contained in the paragraph of the Complaint designated "153".

AS TO THE EIGHTH CAUSE OF ACTION

TWENTY-SIXTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "153" of the Complaint as though fully set forth at length herein.

TWENTY-SEVENTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "155", "156", "157", "158", "159", "160", "161", "162", "163" and "164".

TWENTY-EIGHTH: Denies each and every allegation contained in the paragraph of the Complaint designated "165".

AS TO THE NINTH CAUSE OF ACTION

TWENTY-NINTH: Repeats, reiterates and realleges each and every response to paragraphs numbered "1" through "165" of the Complaint as though fully set forth at length herein.

THIRTIETH: Denies each and every allegation contained in the paragraphs of the Complaint designated "177" and "178".

THIRTY-FIRST: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the Complaint designated "166", "167", "168", "169", "170", "171", "172", "173", "174", "175", "176", "179" and "180".

AS TO THE PRAYER FOR RELIEF

THIRTY-SECOND: Denies each and every allegation contained in the paragraphs of the Complaint designated "1" and "2".

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

THIRTY-THIRD: Defendant **CLASS SURGERY BROOKLYN GROUP, P.C.** claims the protection, benefits and limitations on liability as set forth in Article 1600 of the Civil Practice Law and Rules.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

THIRTY-FOURTH: Upon information and belief, that the alleged causes of action, if any, stated in the Complaint are barred by the applicable statute of limitations.

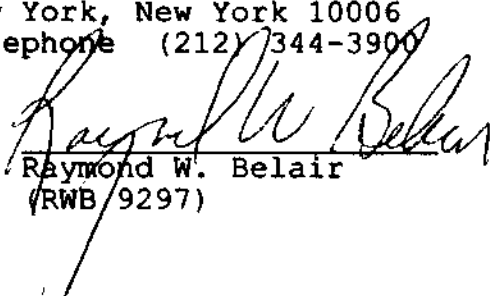
AS AND FOR A THIRD AFFIRMATIVE DEFENSE

THIRTY-FIFTH: This Court has no personal jurisdiction over the defendant **CLASS SURGERY BROOKLYN GROUP, P.C.** by reason of defective service of process.

WHEREFORE, defendant, **CLASS SURGERY BROOKLYN GROUP, P.C.,** demands judgment dismissing the Complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
May 14, 2008

BELAIR & EVANS LLP
Attorneys for Defendant
CLASS SURGERY BROOKLYN GROUP, P.C.
61 Broadway - Suite 1320
New York, New York 10006
Telephone (212) 344-3900

By: 
Raymond W. Belair
(RWB/9297)

TO:

LEAHEY & JOHNSON, P.C.
Attorneys for Plaintiff
120 Wall Street, Suite 2220
New York, New York 10005
Tel.: (212) 269-7308

THE BROOKDALE HOSPITAL MEDICAL CENTER
One Brookdale Plaza
Brooklyn, New York 11212

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One Gustave L. Levy Place
New York, New York 10029

BRIAN RIORDAN, M.D.
One Gustave L. Levy Place
New York, New York 10029

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

I, MARCY KRUSKAL, being duly sworn, say:

I am not a party to this action, am over 18 years of age and reside in Staten Island, New York.

On May 14, 2008, I served the within **ANSWER** by depositing a true copy thereof in a postpaid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

UPON:

LEAHY & JOHNSON, P.C.
Attorneys for Plaintiff
120 Wall Street, Suite 2220
New York, New York 10005

THE BROOKDALE HOSPITAL MEDICAL CENTER
One Brookdale Plaza
Brooklyn, New York 11212

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BRIAN RIORDAN, M.D.
One Gustave L. Levy Place
New York, New York 10029



MARCY KRUSKAL

Sworn to before me this
19 day of May, 2008



Notary Public

JOHN GIZUNTERMAN
Notary Public, State of New York
No. 02GI6144115
Qualified in Queens County
Commission Expires April 24, 2010

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SOUTHERN DISTRICT OF NEW YORK

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Plaintiff,

-against-

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CENTER, and THE NEW YORK HOSPITAL
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ANSWER

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Attorneys for Defendant
CLASS SURGERY BROOKLYN GROUP, P.C.
61 Broadway - Suite 1320
New York, New York 10006
Tel.: (212) 344-3900

TO:

ALL PARTIES